

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	4:02CR3039
	)	
V.	)	
	)	
LEOCADIO RADILLO,	)	<b>MEMORANDUM AND ORDER</b>
	)	
Defendant.	)	
_____	)	

This matter is before the court on Defendant's notice of appeal of final sentence pursuant to [18 U.S.C. § 3742](#) ([filing 310](#)). The Clerk of Court has advised the undersigned in a memo ([filing 311](#)) that the appeal appears to be untimely, and has requested a ruling on the issue of excusable neglect and good cause pursuant to [United States v. Anna](#), 843 F.2d 1146, 1147 (8th Cir. 1988). The Clerk of Court has additionally inquired by memorandum as to Defendant's ability to proceed in forma pauperis on appeal ([filing 312](#)).

Defendant's notice of appeal was filed on April 27, 2009, from the court's judgment of March 4, 2003 ([filing 201](#)). Defendant's notice of appeal was clearly not filed within the 10-day period specified by [Fed. R. App. P. 4\(b\)\(1\)\(A\)\(i\)](#), nor within the 30-day extended period provided for cases of excusable neglect or good cause under [Fed. R. App. P. 4\(b\)\(4\)](#). Thus, the appeal is untimely and no extension of time can be granted.

IT IS ORDERED:

1. Defendant's notice of appeal ([filing 310](#)) is denied as the appeal is not taken in good faith;

2. The clerk of the court shall not process an appeal to the United States Court of Appeals for the Eighth Circuit on the basis of the aforesaid filing by Defendant;
3. Defendant is not permitted to proceed in forma pauperis on appeal ([filing 312](#));
4. The clerk of the court shall forward a copy of this memorandum and order to the Clerk of the United States Court of Appeals for the Eighth Circuit.

May 12, 2009.

BY THE COURT:  
*s/Richard G. Kopf*  
United States District Judge